

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

OLDCASTLE PRECAST, INC.,

Plaintiff,

v.

VPMC, LTD.,
JOSEPH R. GAMBONE, JR.,
MICHAEL A. GAMBONE,
AUDREY GAMBONE, co-executor of the
ESTATE OF ANTHONY R. GAMBONE,
Sr., MICHAEL A. GAMBONE,
co-executor of the ESTATE OF
ANTHONY R. GAMBONE, SR.,
GEORGE J. FALCONERO, co-executor
of the ESTATE OF ANTHONY
GAMBONE, SR., SANDRA LEE
GAMBONE, co-executor of the ESTATE
OF ANTHONY GAMBONE, SR., and
SHARON ANAPOSIKY, co-executor of
the ESTATE OF ANTHONY
GAMBONE, SR.,

Defendants.

CIVIL ACTION

No. 12-6270

ORDER

AND NOW, this 13th day of May, 2013, upon consideration of Defendants, VPMC, Ltd., Joseph R. Gambone, Jr., Michael A. Gambone (“Michael Gambone”), Audrey Gambone, George J. Falconero, Sandra Lee Gambone, and Sharon Anaposiky’s (collectively, “Defendants”), Motion to Dismiss Plaintiff’s Amended Complaint (Doc. No. 9), Plaintiff, Oldcastle Precast, Inc.’s (“Oldcastle”), Response, and Defendants’ Reply, it is hereby **ORDERED** that said Motion is **GRANTED** in part and **DENIED** in part as follows:

1. The Motion is **GRANTED** as to Defendants’ claims against Michael Gambone for conversion (Count IV) and civil conspiracy (Count V);

2. The Motion is **DENIED** as to Defendants' claims against Michael Gambone for fraud (Count I), negligent misrepresentation (Count II), tortious interference with a contractual relationship (Count III), quantum meruit (Count VII), and alter ego/participation (Count VIII);
3. The Motion is **GRANTED** as to Defendants' claims against the VPMC Principals for fraud (Count I), negligent misrepresentation (Count II), conversion (Count IV), civil conspiracy (Count V), and quantum meruit (Count VII);
4. The Motion is **DENIED** as to Defendants' claims against the VPMC Principals for breach of contract (Count VI), alter ego (Count VIII), and promissory estoppel (Count IX); and
5. The Motion is **GRANTED** as to Defendants' claim against VPMC, Ltd. for quantum meruit (Count VII).

It is **FURTHER ORDERED** that, within fourteen (14) from the date of this Order, Defendants shall supply Oldcastle with requested discovery regarding the "ownership structure and financial organization" of Ridgewood, GDC, GAC, and VPMC, Ltd. that has not already been disclosed in Defendants' answers to this Court's questions concerning the issue of indispensable parties. Within ten (10) days of receipt of this discovery, Oldcastle shall file with this Court any supplemental relevant information and/or argument regarding this issue which was not included in its responses to this Court's questions. Thereafter, Defendants may renew their Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(7) if they so choose.

BY THE COURT:

/s/ Robert F. Kelly
ROBERT F. KELLY
SENIOR JUDGE